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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services	)	CC Docket No. 94-54

To: The Commission

MCI COMMENTS ON PETITIONS FOR RECONSIDERATION

MCI Telecommunications Corporation (MCI), by its attorneys and pursuant to Section 1.429 of the Commission's Rules, respectfully submits the following comments in response to petitions for reconsideration and clarification of the First Report and Order (Order) in the above-captioned proceeding.

MCI, the nation's largest CMRS reseller, supports the petitions submitted by the reseller petitioners, specifically the National Wireless Resellers Association (NWRA), the Cellular Resellers Association (CRA) and Connecticut Telephone and Communications Systems, Inc. (Connecticut Telephone). MCI's experience in both the wireline and wireless markets has demonstrated that viable resale plans stimulate competition and promote customer choice. Rather than repeat those arguments in detail, MCI summarizes below its current views on the resale rule and the proposed "automatic sunset."

1) The extension of cellular resale obligations to PCS and covered SMRs is fully justified -- indeed, essential -- given consideration of all relevant factors, including the long and

successful history of the Commission's resale policies and the record in this proceeding.

2) In proposing to adopt an automatic sunset of the resale obligation, the Commission has understated the benefits that the resale policy has brought to both consumers and competition, and it has overstated the alleged burdens that resale obligations impose on facilities-based CMRS providers.

3) As the Commission has acknowledged, there is insufficient facilities-based competition in CMRS at present to warrant the abandonment of the resale policy.

4) There can be no assurance that there will be a sufficient level of facilities-based competition in five years (or any other predetermined period) to warrant removal of the rule. The arbitrary five-year "automatic sunset" provision there should be abandoned. In its place, the Commission should commit itself to reexamine, in a notice and comment proceeding to be initiated on the fourth anniversary of the effective date, whether the rule continues to serve the public interest. If, at that time, the Commission's predictions (e.g., that there will be six or more vigorous facilities-based CMRS competitors in each market) prove to be true, then the current justification for the rule may no longer warrant its retention. In any event, all affected parties should have an opportunity at that time to identify facts, circumstances and public interest considerations warranting either repeal or continuation of the resale requirement.

AT&T and PCIA, ignoring the unique regulatory history of

bundling (or, euphemistically, "packaging") of CPE in the cellular industry, ask that the Commission "revise and clarify" the scope of the resale obligation. AT&T asks that said obligation apply only to basic transmission offerings, and not to CPE or to non-regulated services that may be offered as a bundle package with transmission service. PCIA also urges the Commission to "make plain" that the rule does not require carriers to provide access to proprietary technologies and products. The Commission should deny these requests.

The commercial wireless service market stands in marked contrast to wired telephony, where CPE bundling is prohibited and the Commission's Part 68 rules specify detailed interface requirements to assure that CPE provided by multiple vendors is capable of interoperating with the public switched network. In CMRS (with the exception of the original analog AMPS standard incorporated in the cellular rules), there are only a handful of regulatory requirements, and the vast majority of those relate exclusively to interference protection and common air interfaces. Manufacturers and carriers are free to design, manufacture and implement proprietary systems that may incorporate unique features and functionalities so long as they do not violate these few largely rf-oriented guidelines. For example, at an early stage in the SMR industry, there were three proprietary, competing and incompatible signaling formats.

Today, many features and functions can either reside "in the network" or in the handset(CPE), and the exchange of messages

between the CPE and the carrier's network may take place in a proprietary format. The effect of granting of these seemingly innocent requests would be to relegate resellers -- at the whim of the carriers and cooperating manufacturers -- to an "opportunity" to purchase "transmission" for resale, with no assurance that it would have any source of supply for CPE, or even any right of access to proprietary technologies needed to manufacture and operate CPE capable of communicating via the carrier's "transmission" offering.

AT&T does not identify the "non-regulated" services it would provide that it desires to have excluded from the resale obligation. MCI is aware that some cellular carriers have taken the position that a single customer contract-based offering, identical in all respects to their public CMRS offering -- except that the preferred customer gets a sub-minute airtime billing increment not available to other subscribers -- is a private carrier, "non-regulated service." Clearly, as the Commission recognized in the CMRS Second Report and Order, allowing a CMRS carrier to unilaterally reclassify some or all of its offerings as "private" is contrary to the principles underlying the amendments adopted in the 1993 Budget Act. MCI has no objection to CMRS carriers offering legitimately private services in appropriate circumstances, but it strongly opposes any effort by CMRS carriers to evade their obligations as CMRS providers by re-labeling commercial services as private services. For this reason, MCI recommends that the Commission extend to all CMRS

carriers subject to a resale obligation (cellular, PCS and covered SMR) the presumption and obligation it has already adopted for PCS licensees in the CMRS Second Report and Order, namely, that all services are presumed to be CMRS and subject to the right of providers to demonstrate a reasonable basis for overcoming the CMRS presumption. (See 9 FCC Rcd. 1411, at 1463)

AT&T asserts that the Commission's failure to subject real-time interconnected data services offered over SMR spectrum (e.g., ARDIS and RAM Mobile) to the same resale rules that apply to AT&T's circuit and packet data offerings that utilize cellular spectrum results in unequal treatment of like services. AT&T's proposed solution, to exempt all wireless data services (including cellular and PCS) from resale obligations, should be rejected, in favor of modifying the definition of covered SMR to extend the resale requirement to include data services as well as voice services.

Wherefore, MCI respectfully requests that the Commission take its views into account in acting upon the petitions for reconsideration and clarification in the above-captioned proceeding.

Respectfully submitted,

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Dated: September 27, 1996 Its Attorneys

CERTIFICATE OF SERVICE

I, Sheila L. Austin, hereby certify that the foregoing **"COMMENTS ON PETITIONS FOR RECONSIDERATION"**, CC Docket No. 94-54 was served this 27th day of September, 1996, by mailing true copies thereof, postage prepaid, to the following persons at the addresses listed below:

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